

OPI Pulse: Court Reform

Background:

Florida's court system consists of several levels of jurisdiction including County Courts, Circuit Courts, District Courts of Appeal and a single statewide Supreme Court. In Florida's court system, some judges are elected, such as county and circuit judges, while others are appointed like Supreme Court Justices or District Courts of Appeal judges. In all courts across the state, Florida's court rules govern the procedures judges must use in their courtrooms. There are many different rules depending on the type of case being tried, but examples include rules for criminal procedures, civil procedures, family law procedures and traffic court procedures. Court rules help ensure justice system processes are fair and uniformly applied. In addition to the requirement that Florida's judges adhere to the same rules across the state, all Florida justices and judges are also subject to review and investigation by the Judicial Qualifications Commission (JQC). The JQC is an independently appointed body responsible for investigating allegations of misconduct against justices and judges. These investigations can lead to the discipline of justices and judges on any level within the Florida court system including the Supreme Court.

Issues at a Glance:

Joint Resolution 7111 was introduced by the House Judiciary Committee April 7, 2011, proposing several changes to Florida's court system. Proponents of the legislation expressed the following reasons for the legislation:

- Proponents favor modeling the state's court system nomination and confirmation process after the system utilized by the federal government.
- Proponents stress the current Judicial Qualifications Commission system does not foster accountability to the public. Due to existing confidentiality law, members of the Florida House, which is constitutionally charged with administering the process by which a justice or judge might be impeached, are limited in knowing of or understanding cases of alleged judicial misconduct being investigated by the JQC. Proponents argue this lack of access is contrary to the spirit of accountability among Florida's three branches of government.
- Proponents assert the Florida Supreme Court has previously honored a low number of the Legislature's court rule repeals, rendering the Legislature's ability to check and balance the court rule adoption process by a 2/3 supermajority vote moot.

What the Joint Resolution Does:

House Joint Resolution 7111 proposes a Constitutional Amendment to address reforms to Florida's court system. The Joint Resolution passed the Florida House with a vote of 80-38 on May 3, 2011, and later passed the Senate with a vote of 24-11 on May 5, 2011. Among other things, the Joint Resolution:

Quick Look:

This document includes:
Background Information,
Quick Facts, and
Frequently Asked
Questions about House
Joint Resolution 7111
sponsored by the [Judiciary
Committee](#) chaired by
[Representative Snyder](#).

Quick Facts:

Florida Court System

- County Court
- Circuit Court
- District Courts of Appeal
- Supreme Court

Current Florida Supreme Court Justices:

- Chief Justice Charles T. Canady
- Justice Barbara J. Pariente
- Justice R. Fred Lewis
- Justice Peggy A. Quince
- Justice Ricky Polston
- Justice Jorge Labarga
- Justice James E.C. Perry

Court Resources:

[Florida State Courts](#)

[Florida Supreme Court](#)

[Judicial Qualifications
Commission](#)

Additional Information:

[OPI Pulse: Court Rule
Adoption](#)

[House Bill 7101: Judicial
Nominating Commissions](#)

- Requires Senate confirmation of the Governor's appointed Supreme Court Justices.
- Establishes a 90-day Senate confirmation window to confirm a Supreme Court Justice nominee. Should the Senate fail to vote on the nomination within 90 days, the Justice will be considered confirmed.
- As the body responsible for judicial impeachment proceedings, grants the Speaker of the Florida House of Representatives, at his or her request, access to the complaint files of the Judicial Qualifications Commission at any time. The bill requires the complaint files be kept confidential until the information is used in the pursuit of impeachment.
- Leaves rulemaking authority with the judicial branch but allows the Legislature to repeal a court rule with a majority vote. The repeal process would require that the Legislature identify the justification for the repeal and allow the judicial branch the opportunity to modify the court rule to address the concerns raised. Should the judicial branch proceed to enact the same rule, the process would allow the Legislature to repeal the rule irrevocably by a second majority vote.

Frequently Asked Questions: Court Reform

Who appoints justices to the Supreme Court?

The Governor appoints justices to the Florida Supreme Court. Should this proposed constitutional amendment pass, the Florida Senate would have 90 days to confirm the Governor's appointments.

Why do proponents feel it is necessary for the Speaker of the House to have access to the JQC complaint files?

Under current law, the Speaker can review an investigatory file of the JQC only if the Speaker knows to ask about that specific justice or judge. It is possible that there is judicial misconduct that does not come to the attention of the Speaker or that has been mishandled by the JQC, which could be discovered if this revision passes. Alternatively, the Speaker may, should this proposed constitutional amendment pass, audit all of the disciplinary files and discover whether the JQC is performing appropriately. Because of the current confidentiality provisions, there is no means to know which of these positions is correct.

How will rulemaking change with this Joint Resolution?

Should this Joint Resolution pass, existing rules and rulemaking procedures within the courts would stay the same. However, the Joint Resolution would reinstitute the authority of the Legislature to repeal a court rule by a majority vote. This majority vote rulemaking repeal process was previously established in Florida from statehood through 1972. The Joint Resolution would require the Legislature to provide a specific reason for any rule repeal. This factor is unique as currently, there is no instance in which the Legislature is required to give a reason for passing a bill. Proponents believe that by adding this unique new feature, a constructive formalized dialogue between the Legislature and the Court regarding controversial court rules will take place.